



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG-2011-0551]

RIN 1625-AA08

Special Local Regulations; Revision of 2013 America's Cup
Regulated Area, San Francisco Bay; San Francisco, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule with request for comments.

SUMMARY: The Coast Guard is revising the regulated area for the 2013 America's Cup sailing events. Previously, the Coast Guard established a special local regulation, on July 17, 2012, for sailing regattas scheduled to be conducted on the waters of San Francisco Bay adjacent to the City of San Francisco waterfront in the vicinity of the Golden Gate Bridge and Alcatraz Island. The Coast Guard is amending the rule to modify the eastern boundary of the Primary Regulated Area. The change relocates the northeast corner of the Primary Regulated Area to the east 360 yards and relocates the southeast corner 910 yards to the southwest.

DATES: This rule is effective from July 4, 2013, until September 23, 2013.

Comments and related material must be received by the Coast

Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION
IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of
docket USCG-2011-0551. To view documents mentioned in this
preamble as being available in the docket, go to
<http://www.regulations.gov>, type the docket number in the
"SEARCH" box and click "SEARCH." Click on Open Docket Folder on
the line associated with this rulemaking. You may also visit the
Docket Management Facility in Room W12-140 on the ground floor of
the Department of Transportation West Building, 1200 New Jersey
Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m.,
Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this
temporary rule, call or e-mail Commander Aaron Lubrano, U.S.
Coast Guard Sector San Francisco; telephone (415) 399-3446 or e-
mail at Aaron.C.Lubrano@uscg.mil. If you have questions on
viewing the docket, call Barbara Hairston, Program Manager,
Docket Operations, telephone (202)366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking
SLR	Special Local Regulation

A. Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided.

1. Submitting comments

If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online at <http://www.regulations.gov>, or by fax, mail, or hand delivery, but please use only one of these means. If you submit a comment online, it will be considered received by the Coast Guard when you successfully transmit the comment. If you fax, hand deliver, or mail your comment, it will be considered as having been received by the Coast Guard when it is received at the Docket Management Facility. We recommend that you include your name and a mailing address, an e-mail address, or a telephone number in the body of your document so that we can contact you if we have questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov>, type the docket number (USCG-2011-0551) in the "SEARCH" box and click "SEARCH." Click on "Submit a Comment" on the line associated with this rulemaking.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period and may change the rule based on your comments.

2. Viewing comments and documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number (USCG-2011-0551) in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

3. Privacy Act

Anyone can search the electronic form of comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review a

Privacy Act notice regarding our public dockets in the January 17, 2008, issue of the Federal Register (73 FR 3316).

B. Regulatory History and Information

On July 17, 2012, the Coast Guard published a temporary final rule regulating the on-water activities associated with the "Louis Vuitton Cup," "Red Bull Youth America's Cup," and "America's Cup Finals Match" scheduled to occur in July, August, and September, 2013 (77 FR 41902). That rule created a special local regulation (SLR) that established regulated areas on the water to enhance safety and maximize access to the affected waterways. The Coast Guard is revising the location of the 2013 regulated area with this interim rule.

The Coast Guard is issuing this temporary interim rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest."

Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because publishing an NPRM would be impracticable and contrary to the public interest.

Recent on-water testing of the AC72 class racing boats has proven that speeds in excess of forty knots will be regularly

achieved, which is faster than previous design forecasts.

The Coast Guard will consider all comments and may incorporate additional changes to the race area to further enhance maritime safety. However, the time required to complete the full NPRM process does not allow for comment, publication, and implementation prior to the first regatta. The Captain of the Port, San Francisco, has determined that the race could pose a risk to public safety and property. Such hazards include vessel collisions in a congested area and potential capsizing of competitor vessels in close proximity to spectator vessels. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect spectators and vessels from the hazards associated with a large gathering of sailboats for a race. Based on these concerns, it is in the public interest to have the revised regulation in effect during the entire event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the Federal Register. For the same reasons discussed in the preceding paragraph, waiting for a 30 day notice period to run would be impracticable and contrary to the public interest.

C. Basis and Purpose

Under 33 CFR 100.35, the Coast Guard District Commander has

authority to promulgate certain special local regulations deemed necessary to ensure the safety of life on the navigable waters immediately before, during, and immediately after an approved regatta or marine parade. The Commander of Coast Guard District 11 has delegated to the Captain of the Port (COTP) San Francisco the responsibility of issuing such regulations.

With this interim rule, the Coast Guard is revising the Primary Regulated Area associated with the special local regulation published for the Louis Vuitton Cup challenger selection series and the America's Cup Finals Match occurring in 2013. Recent on-water testing of the AC72 class racing boats has proven that speeds in excess of forty knots will be regularly achieved, which is faster than previous design forecasts.

Modifying the eastern boundary of the Primary Regulated Area will allow event organizers to adjust the race course to better suit the demonstrated speed and maneuverability of the AC72s, while optimizing maritime safety for the spectators, commercial traffic and race participants, and preserving existing buffer zones near environmentally sensitive areas. The reduced size of the regulated area near the San Francisco waterfront is expected to help reduce race-related delays for commuter ferries as they approach or depart San Francisco, and enhance the navigation safety in this area. Due to the changes to the regulated area the entrance to the transit zone needed to be adjusted to align with the eastern boundary. The "T" section of

the transit zone was modified to allow for better access and to create a consistent safety buffer during race finishes.

D. Discussion of the Interim Rule

The Coast Guard is modifying the Primary Regulated Area established in the special local regulation published on July 17, 2012 (77 FR 41902) associated with the Louis Vuitton Cup challenger selection series and the America's Cup Finals Match occurring in 2013. The revised rule relocates the northeast corner of the Primary Regulated Area to the east 360 yards to

37°49'41" N, 122°24'17"W, adds one additional point on the

eastern flank at 37°49'10"N, 122°23'43"W and relocates the

southeast corner 910 yards to the southwest to 37°48'24" N,

122°23'43"W. The rule also relocates the entrance to the transit

zone near Blossom Rock southeast 400 yards to 37°49'17" N,

122°23'51"W and 37°49'10" N, 122°23'43"W. An image of the

revised Primary Regulated Area for 2013 may also be found in the docket (USCG-2011-0551).

All other provisions in the rule remain the same.

E. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not

reviewed it under those Orders.

We do not expect the rule to be significant because the regulated area established by the SLR is limited in duration and is limited to a narrowly tailored geographic area. In addition, although this rule restricts access to the waters encompassed by the regulated area, the effect of this rule will not be significant because the local waterway users will be notified via public Broadcast Notice to Mariners to ensure the regulated area will result in minimum impact. The entities most likely to be affected are waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: owners and operators of waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities and sightseeing, if these facilities or vessels are in the vicinity of the regulated area at times when this area is being enforced. This rule will not have a significant economic impact on a

substantial number of small entities for the following reasons:

(i) this rule will encompass only a small portion of the waterway for a limited period of time, and (ii) the maritime public will be advised in advance of the Coast Guard's enforcement of the regulated area via Broadcast Notice to Mariners.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an

expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action does not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects

33 CFR part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

PART 100 - REGATTAS AND MARINE PARADES

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Revise paragraphs (a)(1) and (d)(6) of § 100.T11-0551B to read as follows:

§ 100.T11-0551B Special Local Regulation; 2013 America's Cup Sailing Events.

(a) * * *

(1) The following area is the Primary Regulated Area for the 2013 America's Cup sailing events: All waters of San Francisco Bay bounded by a line beginning at position 37°48'12"N, 122°24'04"W located on the foot of Pier 23, running northeast to position 37°48'24" N, 122°23'43"W, running north to position

37°49'10" N, 122°23'43"W, running northwest to position

37°49'41" N, 122°24'17"W located east of Alcatraz Island, running

west to position 37°49'41"N, 122°27'35"W, running southwest to position 37°49'02"N, 122°28'21"W, running south to position 37°48'32"N, 122°28'21"W, and running eastward along the City of San Francisco shoreline ending at position 37°48'12"N, 122°24'04"W located on the foot of Pier 23. All coordinates are North American Datum 1983.

* * * * *

(d) * * *

(6) Transit Zone. Within the Primary Regulated Area, a transit zone, approximately 200 yards in width, is established along the City of San Francisco waterfront. The transit zone will begin at the face of Pier 23, run westward along the pier faces to the Municipal Pier, and continue westward to the northern boundary of the area defined in paragraph (d)(4). This transit zone is bounded by the following coordinates: 37°48'40"N, 122°28'21"W; 37°48'32"N, 122°28'00"W; 37°48'32"N, 122°26'24"W; 37°48'39"N, 122°25'27"W; 37°48'43"N, 122°25'13"W; 37°48'41"N, 122°24'30"W; 37°48'28"N, 122°24'04"W; 37°48'17"N, 122°23'54"W; 37°48'21"N, 122°23'49"W; 37°48'33"N, 122°24'00"W; 37°49'00"N, 122°24'00"W;

37°49'10" N, 122°23'43"W; 37°49'17" N, 122°23'51"W; 37°48'48"N,

122°24'40"W; 37°48'49"N, 122°25'16"W; 37°48'37"N, 122°26'22"W;
37°48'37"N, 122°28'00"W; 37°48'47"N, 122°28'21"W (NAD 83). This
transit zone is for vessels that need to access pier space or
facilities at, or to transit along, the City of San Francisco
waterfront. It may be marked by buoys and/or America's Cup
support vessels. No vessel may anchor, block, loiter in, or
otherwise impede transit in the transit zone. In the event the
eastern sections of the transit zone are temporarily closed for
vessel safety, such as races finishes, vessels must follow the
procedures in paragraph (d)(3) to request access.

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Dated: June 19, 2013

Gregory G. Stump
Captain, U.S. Coast Guard
Captain of the Port San Francisco

[FR Doc. 2013-15809 Filed 07/01/2013 at 8:45 am; Publication
Date: 07/02/2013]